

CITY OF SAN JOSÉ, CALIFORNIA  
Department of Planning, Building and Code Enforcement  
200 East Santa Clara Street  
San José, California 95113

Hearing Date/Agenda Number  
C.C. 10-18-05 Item No. #

11.1(b)

File Number  
PDC05-074

Application Type  
Conforming Planned Development Rezoning

Council District  
6

Planning Area  
Central

Assessor's Parcel Numbers  
230-42-020 & -022

## STAFF REPORT

### PROJECT DESCRIPTION

Completed by: Erin Morris

Location: west side of Myrtle Street approximately 200 feet northerly of West Hedding Street

Gross Acreage: 0.25

Net Acreage: 0.25 Net Density: 8 DU/AC

Existing Zoning: R-1-8 Single Family Residence District Existing Use: Single-family detached residential

Proposed Zoning: A(PD) Planned Development Proposed Use: Single-family detached residential

### GENERAL PLAN

Land Use/Transportation Diagram Designation  
Medium Low Density Residential (8 DU/AC)

Project Conformance:  
☒ Yes ☐ No  
☐ See Analysis and Recommendations

### SURROUNDING LAND USES AND ZONING

North: Multiple Family Residential

R-1-8 Single Family Residence District

East: Single-Family Detached Residential and Duplex

R-1-8 Single Family Residence District, R-2 Two Family Residence District, and CO Commercial Office

South: Single-Family Detached Residential and Duplex

R-2 Two Family Residence District

West: Office

R-2 Two Family Residence District

### ENVIRONMENTAL STATUS

☐ Environmental Impact Report found complete (GP 2020 EIR certified 8/16/1994)  
☐ Negative Declaration circulated on  
☐ Negative Declaration adopted on

☒ Exempt  
☐ Environmental Review Incomplete

### FILE HISTORY

Annexation Title: College Park/ Burbank Sunol

Date: December 8, 1925

### PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

☒ Approval  
☐ Approval with Conditions  
☐ Denial  
☐ Uphold Director's Decision

Date: September 28, 2005

Approved by: *Susan Walton*  
☒ Action  
☐ Recommendation

### PROPERTY OWNERS/ APPLICANTS

Judy C. McDowell  
c/o Richard Guggenheim  
99 Almaden Boulevard  
Suite 300  
San Jose, CA 95113

Nguyen Hoang Nguyen  
Hang Le Nguyen  
c/o Stephen Levy  
17670 Woodland Avenue  
Morgan Hill, CA 95037

### CONTACT PERSON

Gloria Ballard  
MH Engineering Company  
P.O. Box 1029  
Morgan Hill, CA 95038

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**PUBLIC AGENCY COMMENTS RECEIVED**

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Department of Public Works

See attached.

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Other Departments and Agencies

See attached memorandum from the Fire Department.

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**GENERAL CORRESPONDENCE**

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None received.

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**ANALYSIS AND RECOMMENDATIONS**

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**BACKGROUND**

The applicants, Judy McDowell and Nguyen & Hang Nguyen, are requesting a Conforming Planned Development Rezoning from R-1-8 Single Family Residence District to A (PD) Planned Development Zoning District to allow reconfiguration of the existing lot line dividing their adjacent properties. Pursuant to Chapter 20.120.100 of the Zoning Ordinance, a zoning application that the Planning Director determines conforms to the Land Use/Transportation Diagram of the General Plan may be heard by the City Council without a recommendation by the Planning Commission.

Each property contains an existing single-family detached residence and the properties comprise a total of 0.25 gross acre site. A Planned Development Zoning is required because the proposed reconfiguration would result in lots that do not conform to the development standards of the R-1-8 Single Family Residence District and would further reduce the frontage of a lot that is already substandard in width. The applicants have filed a Lot Line Adjustment application (AT05-072) to move the lot line once the Planned Development Rezoning and Permit are approved.

*Project Description and Surrounding Uses*

Parcel A, approximately 7,802 square feet in size, is a flag lot; the "flag pole" portion of the lot along Myrtle Street is currently 42.95 feet wide and the "flag" portion is 72 feet wide and wraps behind the adjoining parcel to the north. The existing house on Parcel A is constructed at the back of the lot.

Parcel B is approximately 3186.3 square feet in size and is currently 37.05 feet wide. Due to the narrow width of this lot, access to the existing detached garage at the back of the site is provided via a driveway and associated easement located on Parcel A. The proposed rezoning will move the lot line 10 feet to the north so that the driveway for Parcel B can be accommodated on Parcel B, eliminating the need for an easement across Parcel A.

The project site is surrounded by multi-family residential uses to the north, single-family residential and duplex uses to the east and south, and office uses to the west.

**ENVIRONMENTAL REVIEW**

Under the provisions of Section 15305 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA) this project is found to be exempt in that it involves a minor

change in the location of a lot line in an area with an average slope of less than 20%, which will not result in any change in land use or density and does not result in the creation of any new parcel.

## **GENERAL PLAN CONFORMANCE**

The subject site is designated Medium Low Density Residential (8 DU/AC) on the City of San Jose's 2020 General Plan Land Use/Transportation Diagram. The two sites are developed at a density of 8 DU/AC consistent with the General Plan and the proposed rezoning and subsequent lot line adjustment will not affect the density or uses of the site.

## **ANALYSIS**

Staff believes that the proposed change in the location of the lot line will improve the compatibility of these properties by eliminating the need for the existing easement access and increasing the width of the smaller lot. The legal non-conforming setbacks of the existing houses are not proposed to be altered; however, staff has crafted Draft Development Standards (attached) that will apply to any new additions or redevelopment. These standards mirror those of the R-1-8 Single Family Residence District as closely as is possible. Staff has provided minimum lot sizes that reflect the proposed lots and has included reduced side and rear setbacks that are similar to the setback exceptions of the R-1-8 District. Staff believes that these standards will provide appropriate flexibility for future additions or modification to the existing residences while maintaining a development pattern that will match the surrounding neighborhood.

Based on this analysis, staff concludes that the proposed rezoning improves the existing configuration of the two properties and is compatible with the development pattern of the surrounding neighborhood.

## **PUBLIC OUTREACH**

A notice of the public hearing was distributed to the owners and tenants of all properties located within 500 feet of the project site. Staff has been available to discuss the proposal with members of the public.

## **COORDINATION**

This project was coordinated with the Department of Public Works, Fire Department, Building Division, Environmental Services Department and the City Attorney.

## **RECOMMENDATION**

Planning staff recommends approval of the proposed zoning for the following reasons:

1. The proposed rezoning is in conformance with the General Plan Land Use/Transportation Diagram land use designation of Medium Low Density Residential (8 DU/AC).
2. The proposed rezoning will facilitate development of this site that is compatible with the surrounding uses.

Attachments

*The following Development Standards are to be placed on the Land Use Plan for this Planned Development Zoning once the Zoning is approved by the City Council*

## **DRAFT DEVELOPMENT STANDARDS**

**Permitted Uses:** Permitted uses of the R-1-8 Residence District, as amended

**Minimum Lot Size:**

Parcel A (927 Myrtle) 5,445

Parcel B (921 Myrtle) 4,046

**Side Setback**

**Parcel A and Parcel B:** 4 feet

**Rear Setback Exception  
for Parcel B:**

The rear setback may be reduced to 20% of the depth of the lot;  
in no case shall the rear setback be less than 15 feet.

**Development Standards:** Setbacks of the existing structures are as shown on the General Development Plan. Development Standards for additions to existing structures or new development of the sites, with the exception of the side and rear setbacks noted above, shall conform to the R-1-8 Residence District standards of Chapter 20.30 of the San Jose Municipal Code, as amended. Fence height and accessory structures shall conform to the requirements of Chapter 20.30 of the San Jose Municipal Code, as amended. Parking requirements shall conform to the requirements of Chapter 20.90 of the San Jose Municipal Code, as amended.

**Planned Development Permit Requirements:** A Planned Development Permit shall be required for any future additions or modifications that would otherwise trigger a Single Family House Permit pursuant to Chapter 20.100 of Title 20 of the San Jose Municipal Code, as amended. Modifications that would not otherwise trigger a Single Family House Permit are allowed by right. A Planned Development Permit is required for any accessory structure or parking arrangement that would otherwise require a Special Use Permit pursuant to the requirements of Title 20 of the San Jose Municipal Code, as amended.

## **Water Pollution Control Plant Notice**

Pursuant to part 2.75 of chapter 15.12 of the San Jose Municipal Code, no vested right to a building permit shall accrue as the result of the granting of any land development approvals and applications when and if the City Manager makes a determination that the cumulative sewage treatment demand on the San Jose – Santa Clara water plant will cause the total sewage treatment demand to meet or exceed the capacity of the San Jose – Santa Clara water pollution control plant to treat such sewage adequately and within the discharge standards imposed on the city by the state of California regional water control board for the San Francisco Bay region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approving authority.



# Memorandum

**TO:** Erin Morris  
Planning and Building

**FROM:** Ebrahim Sohrabi  
Public Works

**SUBJECT: FINAL RESPONSE TO  
DEVELOPMENT APPLICATION**

**DATE:** 09/03/05

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**PLANNING NO.:** PDC05-074  
**DESCRIPTION:** Planned Development Rezoning to rezone from R-1-8 Residence Zoning District to A(PD) Planned Development Zoning District to allow substandard lot sizes for two existing single-family residences on a 0.2 gross acre site  
**LOCATION:** west side of Myrtle Street, approximately 200 feet northerly of West Hedding Street  
**P.W. NUMBER:** 3-16922

Public Works received the subject project on 07/21/05 and submits the following comments and requirements.

## **Project Conditions:**

**Public Works Clearance for Building Permit(s):** Prior to the issuance of Building permits, the applicant will be required to have satisfied all of the following Public Works conditions. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits.

### **1. Grading/Geology:**

- a) A grading permit may be required prior to the issuance of a Public Works Clearance. The construction operation shall control the discharge of pollutants (sediments) to the storm drain system from the site. An erosion control plan may be required with the grading application.
- b) The Project site is within the State of California Seismic Hazard Zone. A soil investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The investigation should be consistent with the guidelines published by the State of California (CDMG Special Publication 117) and the Southern California Earthquake Center ("SCEC" report). A recommended depth of 50 feet should be explored and evaluated in the investigation.

2. **Stormwater Runoff Pollution Control Measures:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires

implementation of Best Management Practices (BMPs) that include site design measures, source controls, and stormwater treatment controls to minimize stormwater pollutant discharges.

3. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.
4. **Street Improvements:**
  - a) Applicant shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
  - b) Remove and replace broken or uplifted curb, gutter, and sidewalk along project frontage.
  - c) Close unused driveway cut(s).
  - d) Repair or replace existing driveway cuts.
  - e) Dedication and improvement of the public streets to the satisfaction of the Director of Public Works.
5. **Electrical:** Provide clearance for electrical equipment from driveways. The minimum clearance from driveways is 5' in residential areas.

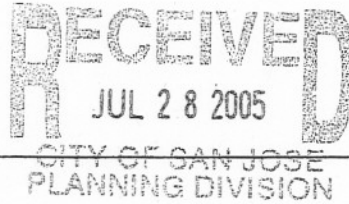
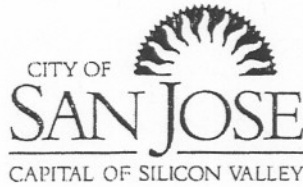
Please contact the Project Engineer, Mirabel Aguilar, at (408) 535-6822 if you have any questions.



Ebrahim Sohrabi  
Senior Engineer  
Transportation and Development Services Division

ES:ma

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## Memorandum

DATE: 07/27/05

TO: Erin Morris

FROM: Nadia Naum-Stoian

Re: Plan Review Comments

PLANNING NO: PDC05-074

DESCRIPTION: Planned Development Rezoning to rezone from R-1-8 Residence Zoning District to A(PD) Planned Development Zoning District to allow substandard lot sizes for two existing single-family residences on a 0.2 gross acre site

LOCATION: west side of Myrtle Street, approximately 200 feet northerly of West Hedding Street

ADDRESS: west side of Myrtle Street, approximately 200 feet northerly of West Hedding Street (927 MYRTLE ST)

FOLDER #: 05 034641 ZN

The Fire Department's review was limited to verifying compliance of the project to Article 9, Appendix III-A, and Appendix III-B of the 2001 California Fire Code with City of San Jose Amendments (SJFC). **Compliance with all other applicable fire and building codes and standards relating to fire and panic safety shall be verified by the Fire Department during the Building Permit process.**

- These comments are based on the following information from drawings dated 4/20/05 by Augustine Designs

Largest building: 1415 sq. ft.

Construction Type: V N

Occupancy Group: R3

Number of stories: 1

Access on property is not required-all structures are within 150 feet from street frontage.

Verify if 1000GPM Fire flow is available from the closest to the property existing public hydrant. Applicant to contact Jim Bariteau of San Jose Water Co. at 408-279-7874 for fire flow information. Submit San Jose Water Co. letter with hydraulic calculations and map showing hydrant locations, along with all other plans to Building/Fire department for construction permits.



Nadia Naum-Stoian  
Fire Protection Engineer  
Bureau of Fire Prevention  
Fire Department  
(408) 277-8754